

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

In re:

LEHMAN BROTHERS HOLDINGS INC., et al.,

Debtors.

SPANISH BROADCASTING SYSTEM, INC.,

Appellant,

-against-

LEHMAN BROTHERS HOLDINGS INC., et al.,

Appellees

Chapter 11

Case No. 08-13555 (SCC)

Jointly Administered

-----X

Appellant Spanish Broadcasting System, Inc. ("Spanish Broadcasting"), by and through its undersigned counsel, pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure, will raise the following issues on appeal of the Order Granting Plan Administrator's Motion for Summary Judgment Regarding Claim 67707 Filed by Spanish Broadcasting [Docket No. 51790] as set forth in the Court's Memorandum Decision issued on December 29, 2015 [Docket No. 51730].

STATEMENT OF ISSUES

1. Whether the Bankruptcy Court erred in determining that by entering into the June 10, 2005 Credit Agreement containing the Damages Waiver, Spanish Broadcasting waived its right to seek consequential damages on account of the Credit Agreement and related loan documents.
2. Whether the Bankruptcy Court erred in determining that the Damages Waiver remains an unconditional and unenforceable waiver of Spanish Broadcasting's rights to bring suit for consequential damages and the Damages Waiver survived the Termination of the June 10, 2005 Credit Agreement.

3. Whether the Bankruptcy Court erred in determining that the Damages Waiver is not an “obligation” under the Payoff Letter.
4. Whether the Bankruptcy Court erred in determining that the characterization of Spanish Broadcasting’s damages as consequential or direct, may be determined on a motion for summary judgment, rather than reserved for trial.
5. Whether the Bankruptcy Court erred in determining that Spanish Broadcasting’s damages are consequential.
6. Whether the Bankruptcy Court erred in determining that LCPI’s failure to fund its portion of the RCF did not limit Spanish Broadcasting’s ability to terminate the Swap.

Dated: February 4, 2016
New York, New York

/s/ Madlyn Gleich Primoff

Madlyn Gleich Primoff
Steven Fruchter
KAYE SCHOLER LLP
250 West 55th Street
New York, NY 10019-9710
(212) 836-8000

*Attorneys for Spanish Broadcasting System,
Inc.*

cc: Ralph Miller, Esq. (via e-mail)
Jacqueline Marcus, Esq. (via e-mail)
Alexander Woolverton, Esq. (via e-mail)